

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

| | | |
|---------------------------|---|--------------------------|
| United States of America, |) | CR. NO. 4:00-256 (CMC) |
| |) | |
| v. |) | OPINION and ORDER |
| |) | |
| Javaline Tyree Dawkins, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

This matter is before the court on Defendant's motion to correct sentence under 28 U.S.C. § 2255, arguing that in light of the Fourth Circuit's holding in *Johnson v. United States*, __ U.S. __, 135 S.Ct. 2551 (2015), Defendant is no longer an armed career criminal and should be resentenced. ECF No. 118. The Government filed a Motion to Dismiss and Response in opposition, citing the concurrent sentence doctrine. ECF No. 123. On May 11, 2016, Defendant filed a response in opposition to the Government's motion to dismiss. ECF No. 127. On May 17, 2016, the Government filed a reply agreeing with Defendant's motion to vacate and to a time served sentence of imprisonment. ECF No. 130.

The court **grants** the motion for relief under 28 U.S.C. § 2255. The Judgment Order as to Javaline Tyree Dawkins in CR 4:00-256 filed November 20, 2000, is hereby **vacated**, and this matter is set for resentencing on **Wednesday, June 22, 2016, at 3:30 p.m.** The Government's motion to dismiss (ECF No. 123) is moot.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
May 18, 2016